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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,675	06/24/2003	John Baranowski	016354.0200	8424
24735	7590	10/05/2005	EXAMINER	
BAKER BOTTS LLP C/O INTELLECTUAL PROPERTY DEPARTMENT THE WARNER, SUITE 1300 1299 PENNSYLVANIA AVE, NW WASHINGTON, DC 20004-2400			SHAPIRO, JEFFERY A	
			ART UNIT	PAPER NUMBER
			3653	
DATE MAILED: 10/05/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/601,675	BARANOWSKI, JOHN	
	Examiner	Art Unit	
	Jeffrey A. Shapiro	3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 24 June 2003.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-55 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-55 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 1/23/04.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Specification*

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-55 are rejected under 35 U.S.C. 102(b) as being anticipated by Mikami et al (US 4,398,612). Mikami discloses vibratory feeder bowl (1) and plural dispensing paths (3), a vibration device (2) that vibrates said feeder bowl, rotation drive (3) that rotates said plural dispensing paths, said dispensing paths having a second vibration device that vibrate said paths based upon a weight characteristic of items deposited from the feeder bowl onto said paths. See col. 2, lines 22-42 and col. 3, lines 21-40. The paths comprise an approximate "U" shape with the second vibration device vibrating each of the channels simultaneously or singularly. Note that Mikami's control system (A) is partially or entirely microcomputer-based, as described at col. 9, lines 53-57 and that such a microcomputer is construed as having a memory and a central processing unit (CPU). This control system senses and reacts to feedback regarding

physical characteristic of the items dispensed which include volume, density and weight. See also col. 6, line 25-col. 7, line 33. Note also that dispensing head (14, 15) comprises a scale.

### ***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-55 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-20 of copending Application No. 10/743,426. Although the conflicting claims are not identical, they are not patentably distinct from each other because they both have a feeder bowl dispenser with plural dispensing paths, a controller for regulating said dispenser, rotating said dispensing paths with a rotation drive, a vibrating device for agitating said dispensing paths.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

6. Claims 1-55 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-13 of copending Application No. 10/743,435. Although the conflicting claims are not identical, they are not patentably distinct from each other because they both have a feeder bowl dispenser with plural dispensing paths, a controller for regulating said dispenser, rotating said dispensing paths with a rotation drive, a vibrating device for agitating said dispensing paths.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

7. Claims 1-55 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-10 of copending Application No. 10/743,440. Although the conflicting claims are not identical, they are not patentably distinct from each other because they both have a feeder bowl dispenser with plural dispensing paths, a controller for regulating said dispenser, rotating said dispensing paths with a rotation drive, a vibrating device for agitating said dispensing paths.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

8. Claims 1-55 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-16 of copending Application No. 10/743,425. Although the conflicting claims are not identical, they are not patentably distinct from each other because they both have a feeder bowl

dispenser with plural dispensing paths, a controller for regulating said dispenser, rotating said dispensing paths with a rotation drive, a vibrating device for agitating said dispensing paths.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

9. Claims 1-55 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-81 of copending Application No. 10/601,669. Although the conflicting claims are not identical, they are not patentably distinct from each other because they both have a feeder bowl dispenser with plural dispensing paths, a controller for regulating said dispenser, rotating said dispensing paths with a rotation drive, a vibrating device for agitating said dispensing paths.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

10. Claims 1-55 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-40 of copending Application No. 10/601,674. Although the conflicting claims are not identical, they are not patentably distinct from each other because they both have a feeder bowl dispenser with plural dispensing paths, a controller for regulating said dispenser, rotating said dispensing paths with a rotation drive, a vibrating device for agitating said dispensing paths.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

11. Claims 1-55 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-29 of copending Application No. 10/601,670. Although the conflicting claims are not identical, they are not patentably distinct from each other because they both a feeder bowl dispenser with plural dispensing paths, a controller for regulating said dispenser, rotating said dispensing paths with a rotation drive, a vibrating device for agitating said dispensing paths.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### *Conclusion*

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Archer et al '512, Thomas '676, McGrath '294, Fridge '275, Matsuura '287, Haze '616, Sugioka '510, Simionato '590, Tatsuoka '655, Matsuyama '589, Fukuda '644, Mikami '190, Hudson '878, and Pipes '032 are cited as examples of vibratory bowl feeders.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Shapiro whose telephone number is (571)272-6943. The examiner can normally be reached on Monday-Friday, 9:00 AM-5:00 PM.

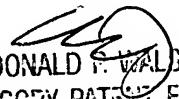
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald P. Walsh can be reached on (571)272-6944. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jeffrey A. Shapiro  
Examiner  
Art Unit 3653

October 1, 2005



DONALD P. WALSH  
SUPERVISORY PATENT EXAMINER  
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